

12 FAH-7 H-400 LOCAL GUARD SERVICES

12 FAH-7 H-410 CONTRACTING FOR LOCAL GUARD SERVICES

(TL:LGP-01; 08-10-2001)

12 FAH-7 H-411 GENERAL

(TL:LGP-01; 08-10-2001)

a. The U.S. Government has found that a non-personal services (NPS) contract with an established professional security firm is generally the most effective, efficient and least expensive option for providing LGP services to a mission. This chapter provides an RSO with information and assistance to develop, finalize, and administer such a contract. A NPS local guard contract provides the following benefits to the RSO and/or PSO and the mission:

- (1) Shifts some of the burden of day-to-day responsibility for administration, scheduling, logistics and personnel to the contractor;
- (2) Generally reduces the U.S. Government liability for accidents, malfeasance, misfeasance, and other long-term obligations as the contract makes most liabilities the responsibility of the contractor;
- (3) Reduces some of the administrative burdens of the program;
- (4) Shifts recruitment, screening, and selection to the contractor;
- (5) Makes the contractor responsible for some or all of the equipment; and
- (6) Makes the contractor responsible for removal and/or replacement of personnel.

b. A sample contract for solicitation can be found on the Department's intranet site at <http://aope.a.state.gov/> and on the Internet site at <http://www.statebuy.gov/oephelp/oephelp.htm>. The RSO and contracting officer (CO) must use this sample document to ensure the proper contract terms are included.

c. The RSO should work closely with the CO to take into account post-unique requirements, as well as local law and conditions, in tailoring the sample local guard solicitation to satisfy LGP needs.

12 FAH-7 H-412 NONPERSONAL SERVICES (NPS) TIME AND MATERIALS CONTRACTS

(TL:LGP-01; 08-10-2001)

The sample LGP solicitations found on the intranet or internet are based on a time and materials basis. Items of particular interest to RSOs and PSOs can be found in 12 FAH-7 Appendix V. The contractor provides hours of service based on a specific requirement (by post and hours of coverage) at a rate fixed in the contract. The contract also provides for both changes in work level requirements and temporary additional and/or emergency services. This type of contract has the following features:

(1) **Responsibility for Supervision**—A NPS contract shifts some of the burden of day-to-day supervision from the RSO and/or PSO to the contractor. Although the RSO and/or PSO should retain overall control and supervision of the LGF, the daily operation, supervision, inspection, and discipline are the contractor's responsibility. This includes preparation of duty rosters and records maintenance (pay, allowances, etc.), all of which are subject to RSO and/or PSO review and/or approval. The fact that the contractor has corporate responsibility under the contract to manage the guard force does not eliminate the need for proper monitoring by the RSO. The RSO as the contracting officer's representative (COR) must be vigilant in reviewing the work of the contractor and documenting cases of poor performance.

(2) **U.S. Government Liability**—A NPS contract reduces the U.S. Government liability for many long-term obligations normally incurred in the direct hiring of local employees. These include coverage under retirement and medical programs, social security, and other benefits required by U.S. or local law. The burden of participation in these programs as required by local custom or law is included in the terms of the contract. Severance pay may or may not be a U.S. Government liability under a NPS contract. See 12 FAH-7 Appendix V.2, paragraph (40). The rates and prices in the contract include all direct costs, indirect costs (fringe benefits), and profit.

A NPS contract also reduces the U.S. Government liability for personal injury or property damage caused by actions or inactions of the contractors guard force employees. The responsibility for liability for injuries or damage on the part of guards should be clearly spelled out in the contract. See 12 FAH-7 Appendix V.2, paragraph (41).

(3) **Mission Administrative Workload**—A NPS contract changes but does not eliminate mission workload. The RSO is not personally responsible for records preparation and/or maintenance in administering a group of employees for individual payroll, leave, health programs, other social services, and administrative details. Contractors are held responsible for all of these functions rather than the mission's administrative staff. **NOTE:** Nevertheless, the RSO as the COR is responsible for inspecting the contractor's work and reviewing the contractor's invoices. The RSO as COR must ensure that the contractor performs acceptably. The U.S. Government pays only for acceptable hours worked, and all items in each invoice must match the terms of the contract.

(4) **Selection and Screening**—A NPS contract shifts some of the burden of pre-employment selection and screening from the mission to the contractor. The mission can require the contractor to perform much of the preliminary work in processing prospective guards. This may include verification of birth, education, military service, previous employment, health examinations, and police checks. Results of all of these should be subject to the mission's final review, internal record checks and approval. The RSO is responsible for reviewing the sample LGP solicitation and ensuring that the selection and screening process meets post's needs.

(5) **Equipment**—A NPS contract can require contractors to furnish some or all of the needed equipment. Where possible, this is the most desirable method of equipping a contracted LGP guard force. It relieves the mission of the burden of funding, procurement, and maintenance of equipment. It eliminates or reduces the level of inventory of U.S. Government property and related administrative work. However, the mission is responsible for periodic reviews and testing of equipment, and the prices offered by competitors may require review during the proposal evaluation process to ensure that they are reasonable.

(6) **Removal and/or Replacement of Personnel**—A NPS contract makes the contractor responsible for the removal and/or replacement of personnel for cause. The sample solicitation and/or contract has a clause covering the removal and/or replacement of personnel for cause upon the written advice of the CO or the COR.

12 FAH-7 H-413 STEPS IN CONTRACTING LGF SERVICES

(TL:LGP-01; 08-10-2001)

Once the decision has been made to contract the LGF services, the procedure generally involves the following steps:

(1) **Development of a Request for Proposals (RFP)**—Assemble all the information necessary to allow prospective offerors to fully understand the scope of work to be performed under the contract. Include the numbers of posts, numbers of guards, kinds and numbers of equipment, etc. A full list of the information needed to develop a RFP can be found in the sample solicitation on the A/OPE Intranet site at <http://aope.a.state.gov> and on the Department's Internet site at <http://www.statebuy.gov/opehelp/opehelp.htm>. The RSO should coordinate with DS/CIS/PSP/FPD and A/OPE for the required inputs.

(2) **Public Announcement Information**—Distribution of the mission's intention to contract for LGF services is publicized through announcements in the Commerce Business Daily, local papers and other sources.

(3) **The Solicitation**—This is the process of requesting and receiving proposals from offerors in accordance with the terms laid out in the request for proposals (RFP).

(4) **Technical Evaluation**—A panel is assembled to review each proposal to ensure that the offeror has fully understood and is able to comply satisfactorily with the terms and conditions of the contract. Only offerors with acceptable technical proposals, as determined by the panel, can be considered for the award of the contract.

(5) **Award of Contract**—The CO awards the contract to the technically acceptable responsible offer with the lowest evaluated price. A 10 percent price preference is available for qualified U.S. firms. Contract awards must be reviewed by A/OPE and L/BA before the contract can be signed.

12 FAH-7 H-414 CONTRACTING OFFICER (CO)

(TL:LGP-01; 08-10-2001)

The CO is the U.S. Government's authorized agent for dealing with contractors and has sole authority to solicit proposals, negotiate, award, and modify contracts on behalf of the U.S. Government. For a LGP, the CO performs duties at the request of the RSO and/or PSO and relies on the RSO and/or PSO for technical advice concerning the supplies and services needed. A close and cooperative relationship between the CO and the RSO is necessary to ensure successful management of these contracts. The CO has the following roles and responsibilities in the contracting process:

(1) Determining the method of acquisition and type of contract to be used;

- (2) Appointing the COR. The COR must be a State Department employee unless alternative procedures have been approved by A/OPE. For local guard force (LGF) contracts, the RSO and/or PSO or an A/RSO are usually appointed as the COR;
- (3) Advertising the procurement action in the Commerce Business Daily;
- (4) Developing the solicitation mailing list;
- (5) Obtaining approval for the solicitation from DS/CIS/PSP/FPD and A/OPE;
- (6) Issuing the solicitation;
- (7) Providing guidance to the technical evaluation panel;
- (8) Negotiating with offerors;
- (9) Executing the contract;
- (10) Debriefing the unsuccessful offerors;
- (11) Administering the contract including execution of contract modifications; and
- (12) Rendering final decisions regarding protest, claims, and disputes.

12 FAH-7 H-415 CONTRACTING OFFICER'S REPRESENTATIVE (COR)

(TL:LGP-01; 08-10-2001)

a. The COR acts as a technical resource to the CO by providing a detailed scope of work for the required services. The RSO or PSO are usually designated as the COR and, as such, is responsible for day-to-day monitoring of the contractor's performance. **NOTE:** Only the CO may modify the terms and conditions of the contract. The COR's duties are described in detail in 6 FAH-2, *The Contracting Officer's Representatives Handbook*, subchapter H-142, and include the following:

- (1) Defining project requirements and developing a statement of work (SOW);
- (2) Initiating, developing and transmitting a complete procurement request package to the CO with all required administrative approvals;
- (3) Assisting the CO in obtaining certification of the availability of funds;

- (4) Obtaining appropriate justification for other than full and open competition, if necessary;
- (5) If serving as chairperson of the technical evaluation panel, directs the evaluation of the technical proposals;
- (6) Assists the CO during discussions and/or negotiations;
- (7) Monitors progress of work under the contract;
- (8) Performs inspection and acceptance work, including a thorough review of all invoices submitted by the contractor;
- (9) Informs the CO, in writing, of any performance or schedule failure by the contractor;
- (10) Resolves technical issues;
- (11) Informs the CO of any changes needed in the SOW;
- (12) Ensures that the U.S. Government meets its obligations to the contractor (e.g., provide U.S. Government furnished equipment and services and timely review and approval of documents);
- (13) Reviews contractor records and files, as needed; and
- (14) Maintains the COR file.

12 FAH-7 H-416 COR LIMITATIONS

(TL:LGP-01; 08-10-2001)

The COR is not authorized to direct the contractor to undertake any activity which will change any of the following:

- (1) Total price or estimated cost;
- (2) Products or deliverables;
- (3) Statement of work;
- (4) Delivery dates;
- (5) Total period of performance; or
- (6) Administrative terms of the contract.

12 FAH-7 H-417 COR APPOINTMENT PROCEDURES

(TL:LGP-01; 08-10-2001)

Specific appointment procedures for a COR are as follows:

(1) A COR is nominated by the requirements office, using the COR nomination form (See 6 FAH-2 H-143 Exhibit H-143.2A). The COR nomination form should be completed and included in the procurement request package, unless the COR will be nominated at a later date.

(2) If approved by the contracting officer, the COR is appointed using Form DS-1924, Certificate of Appointment (6 FAH-2 H-143 Exhibit H-143.2B). In addition, the CO prepares an accompanying delegation memorandum which outlines the scope of the COR's authority, including duties, responsibilities, and prohibitions. (See 6 FAH-2 H-143 Exhibit H-143.2C for a sample generic designation memorandum.) The CO shall ensure that the contractor receives a copy of the memorandum.

(3) If the COR is replaced during the term of the contract, the CO prepares an appointment memorandum for the replacement COR and ensures that the contractor receives a copy.

12 FAH-7 H-418 OFFICE OF THE PROCUREMENT EXECUTIVE (A/OPE)

(TL:LGP-01; 08-10-2001)

a. Direct any questions that arise at posts regarding the correct drafting, approval or interpretation of a LGF contract to A/OPE.

b. A/OPE is the office responsible for the appointment of contracting officers and approving contracts. A/OPE has posted the sample LGF contract on the Intranet and Internet. The office also keeps this sample contract up-to-date and makes any changes in contracting procedures or language that may be required as a result of new laws or changes in policy.

12 FAH-7 H-419 UNASSIGNED